



## *Sexually Explicit Business and Escort Service Tax*

### **Q: What is the Sexually Explicit Business and Escort Service Tax, (SEB tax)?**

- A:** The SEB tax took effect on July 1, 2004 and imposes a 10 percent tax on:
- Businesses where a nude or partially nude individual performs any service for profit on the premises for at least 30 consecutive or nonconsecutive days, regardless of whether the individual is an employee or an independent contractor.
  - Escort services for all amounts paid or charged for any transaction that involves providing an escort to another individual.

### **Q: Where can I find Utah Code §59-27-(101-108), Sexually Explicit Business and Escort Service Tax, on the Internet?**

- A:** Utah Code §59-27-(101-108) can be found on the Internet at:  
[http://le.utah.gov/~code/TITLE59/59\\_19.htm](http://le.utah.gov/~code/TITLE59/59_19.htm)

### **Q: Where can I find the Sexually Explicit Business and Escort Service Tax return?**

- A:** The SEB tax return can be found on the Internet at:  
<http://www.tax.utah.gov/forms/current/tc-63.pdf>

### **Q: What escort services or transactions are subject to the SEB tax?**

- A:** All amounts paid or charged by the escort service for any transaction that involves providing an escort to another individual is subject to the tax.

### **Q: Are tips and gifts received in conjunction with the escort transaction subject to the SEB tax?**

- A:** A tip, which must be a voluntary payment beyond the advertised bill or fee whose amount is determined solely by the discretion of the person being served, is not subject to the SEB tax.

### **Q: I've heard that the SEB tax is being challenged in the courts and I don't have to charge and collect it from my clients.**

- A:** Although this tax is being challenged in the courts, all businesses that are escort services or businesses where a nude or partially nude individual performs any service for profit on the premises for at least 30 consecutive or nonconsecutive days are required to comply with the law by filing Form TC-63, Sexually Explicit Business and Escort Service Tax Return, and remit the tax due.

*Remember, you can charge your clients the SEB tax or build it into your fees, but you are responsible to file and pay the tax.*

### **Q: Besides the SEB tax, what other taxes are escort services subject to?**

**Income Taxes** – Your gross income is subject to income taxes. Gross Income means all income from whatever source derived, including, but not limited to: compensation for services, fees and fringe benefits. Additionally, income resulting from any, and all, other compensated activities must be included in your gross income for income tax purposes.

If you are a sole proprietor or an individual escort, remember that cash tips received directly from customers as well as tips added to credit cards are taxable income. The value of non-cash tips, such as gifts, tickets, passes or other items of value, is also income and subject to income tax. Many people find that keeping a running daily diary of their tip income works well. IRS Form 4070A may also be used.

Regardless of your business structure, i.e. sole proprietorship, partnership or corporation, gross income, including tips, is subject to income taxes. The type of entity determines if taxes are due at the business level or are passed through to the individual owner(s). Either way, the income is taxable. Consult your accountant or taxing authority if you need clarification.

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**Withholding Taxes** – If your business has employees, you must withhold the proper amounts of taxes and report and remit these amounts to the Utah Tax Commission. You must also issue W-2s to each employee at the end of the year showing gross wages, tips and gifts.

If the escorts are considered independent contractors and you act only as a booking agent, you must issue each individual a 1099 at the end of the tax year that includes income from both cash sales and credit card sales.

### Q: What records should I keep?

**A:** You are required to maintain records, statements, books, or accounts necessary to determine the amount of tax for which you are liable to pay. A ledger or worksheet listing sales, both cash and credit card, is generally sufficient to determine your SEB tax liability.

### Q: What are the funds raised by the (SEB) tax earmarked for?

**A:** The revenue generated by the tax is deposited into a special fund for various treatment programs and task forces dealing with perpetrators of sex crimes.

### Example 1:

ZYX Agency Inc. books an escort for a client at a rate of \$150 per hour. The escort is an employee of the agency. The escort spends one hour and is paid \$225. The booking agency keeps \$100 for their booking fees and the escort gets the remaining \$125 (\$50 for their share of the escort service and \$75 in tips).

#### SEB Tax:

- The SEB tax is applied to the \$150 escort service charge. The booking agency is responsible for reporting and remitting this tax. (The remaining \$75 tip is not subject to the SEB tax.)

#### Income Tax:

- The booking agency records income as \$100 and
- The escort's income is \$125. (If the booking agency is unaware of the \$75 tip and does not report it on the employee's W-2, it is the employee's responsibility to include the \$75 tip as part of their taxable income on their individual income tax return.)

### Withholding Tax:

- The agency withholds income taxes for the escort based on their \$125 in income and the agency issues the escort a W-2 at the end of the year.

### Example 2:

The same dollar figures as Example 1, except the escort service is operating as a sole-proprietorship. (The entity providing the booking services and the escort services are one in the same.)

#### SEB Tax:

- The SEB tax is applied to the \$150 escort service charge. The booking agency is responsible for reporting and remitting this tax. (The remaining \$75 tip is not subject to the SEB tax.)

#### Income Tax:

- The entire \$225 should be included in gross income on Schedule C of your individual income tax return.

### Withholding Tax:

- There would be no reason for withholding in this instance since all income will already be accounted for above. Be aware that you may have to remit taxes periodically throughout the year.

**Note:** Regardless of the type of business structure the escort agency is, if the escort is an independent contractor the agency will not withhold income taxes throughout the year, but issue a 1099 to the employee at the end of the year listing their income.

The SEB tax will still be handled the same way as described in the two examples above.